



United States  
Department of  
Agriculture

August 1, 2002

Farm and Foreign  
Agricultural  
Services

Farm Service  
Agency

Kansas City  
Commodity Office  
P.O. Box 419205  
Kansas City,  
Missouri  
64141-6205

AMENDMENT 1 TO  
ANNOUNCEMENT PP9  
PURCHASE OF PEANUT PRODUCTS  
FOR USE IN DOMESTIC PROGRAMS

The purpose of this amendment is to:

- Revise Commodity Specifications by eliminating the test for arsenic from USDA's Announcement for Purchase of Commercial Peanut Products for use in Domestic Programs (PP9).
- Remove the item 2 of subpart H under part 8, Commodity Specifications on page 13 of the Announcement PP9 and insert the following pages 13 through 17.

The effective date of this amendment is August 1, 2002 and is applicable to all contracts awarded on or after the date of issuance.

Any inquiry pertaining to this amendment should be directed to Cheryl Davis, 816-926-3377.

Steven P. Miteff  
Deputy Director

Enclosures



UNITED STATES  
DEPARTMENT OF  
AGRICULTURE

KANSAS CITY  
COMMODITY OFFICE  
P.O. BOX 419205  
KANSAS CITY, MO 64141-6205

EFFECTIVE: January 31, 2002

**ANNOUNCEMENT PP9**

**PURCHASE OF COMMERCIAL  
PEANUT PRODUCTS  
FOR USE IN DOMESTIC PROGRAMS**



# TABLE OF CONTENTS

## PEANUT PRODUCTS

### Page

1.	GENERAL.....	1
2.	ELIGIBILITY OF OFFERORS.....	2
3.	SUBMISSION OF OFFERS .....	3
4.	ACCEPTANCE OF OFFERS.....	5
5.	RESPONSIBILITY AND PAST PERFORMANCE OF OFFEROR .....	5
6.	PROVISIONS OF CONTRACT .....	6
7.	NAICS CODE AND SMALL BUSINESS SIZE STANDARD.....	6
8.	COMMODITY SPECIFICATIONS.....	7
9.	QUALITY ASSURANCE .....	13
10.	COMMERCIAL PACKAGING AND MARKING SPECIFICATIONS.....	14
11.	SHIPMENT AND DELIVERY .....	15
12.	LIQUIDATED DAMAGES .....	16
13.	INVOICES AND PAYMENT.....	16
14.	INQUIRIES .....	18
	CERTIFICATIONS, REPRESENTATIONS, AND WARRANTIES .....	APPENDIX 1
	FAR CLAUSES INCORPORATED BY REFERENCE.....	APPENDIX 2



**ANNOUNCEMENT PP9  
PURCHASE OF PEANUT PRODUCTS  
FOR USE IN DOMESTIC PROGRAMS**

**1. GENERAL**

A. Invitation for Offers

- (1) The United States Department of Agriculture (USDA) will from time to time issue an invitation for offers under this announcement to sell commercial peanut products (hereinafter referred to as peanut butter, roasted peanuts, peanut granules or product) to USDA for use in domestic programs.
- (2) The invitation will specify the office to which offers are to be submitted, the closing time for receipt of offers, and provisions applicable to the proposed procurement which are in addition to or different from those set forth herein.

B. Terms and Conditions

- (1) Provisions of "General Terms and Conditions for the Procurement of Agricultural Commodities or Services," USDA-1, Revision No. 2, as amended (USDA-1), are incorporated as specified in Section 6 of this announcement.
- (2) Offerors are cautioned to read all terms and conditions of USDA-1, the Total Quality Systems Audit (TQSA) Supplier Guidelines, this announcement, the appendixes to this announcement, and the invitation.

C. Certifications, Representations, and Warranties

Appendix 1 to this announcement contains certifications, representations, and warranties that must be certified and submitted annually to USDA prior to or with an offer. In addition to an annual submission, offerors must submit an updated Appendix 1 as changes in the certifications, representations, and warranties submitted to USDA occur throughout the year.

## **2. ELIGIBILITY OF OFFERORS**

To be eligible to submit an offer under this announcement, the offeror must:

- A. Submit a completed "Solicitation Mailing List Application" (Standard Form 129) to the contracting officer prior to a first offer. Offeror must complete all portions of the SF-129, except Item 18, and include the following additional information for:
  - (1) Item 8. Identify all affiliates including any parent company. Provide full name and main office address. A "parent" company is one that owns or controls the activities and basic business policies of the bidder. An "affiliate" is defined on the back of the form.
  - (2) Item 10. Identify the commodities/products the offeror is interested in supplying.
  - (3) Items 19 and 20. Must be an officer of the company.
- B. Offerors must resubmit the SF-129 as necessary when the information requires updating.
- C. Affirmatively demonstrate responsibility as defined in Federal Acquisition Regulation (FAR) 9.104-1. USDA may request a pre-award survey for the purpose of evaluating the offeror's ability to perform the contract.
- D. Meet the definitions of a manufacturer or nonmanufacturer as defined below:
  - (1) Manufacturer, means a person that owns, operates, or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
  - (2) Nonmanufacturer means a person that is primarily engaged in the wholesale or retail trade and normally sells the items being supplied to the general public, and will supply the end item of a small business manufacturer or processor made in the United States, or obtain a waiver or such requirement pursuant to 13 C.F.R. 121.406.
- E. Maintain a bona fide business office in the United States for the purpose of selling to USDA the product described in this announcement. Additionally, the offeror must maintain an office, employee, or agent for service of process.

- F. Meet the requirements of the Total Quality Systems Audit (TQSA) program. Offerors shall only be allowed to offer from plants that have been audited under TQSA and have received a score of at least 80 points. However, a result of “0” in any element of the TQSA Report Form TQ-003 would preclude participation in the commodity purchase programs until such time as corrective action is implemented and verified as effective. (Element scoring: 0 = one (or more) questions with a result of “0”, or four or more questions with a result of “M”.) The Total Quality Systems Audit Suppliers Guidelines setting for the TQSA requirements may be obtained at the Internet location [www.fsa.usda.gov/daco/TQSA/tqsa.htm](http://www.fsa.usda.gov/daco/TQSA/tqsa.htm) or by contacting the appropriate contracting officer at 816-926-6062.

### 3. SUBMISSION OF OFFERS

A. How to Submit Offers

Offers, modifications, withdrawals of offers, and price adjustments shall be submitted through the Domestic Electronic Bid Entry System (DEBES) and received by the date and local time specified in the invitation for receipt of offers. The time of receipt will be determined and recorded by DEBES. Submission of the above by any means other than DEBES will be determined nonresponsive.

B. Computer Software Requirements

The contractor is responsible for choosing their own Internet Service Provider (ISP) to transmit, translate, or carry data between the offeror and this office. The offeror is responsible for the cost of its third-party network.

- (1) Browser requirement: Netscape 4.07 or above **(OR)** Internet Explorer 5.0 or above.
- (2) Encryption: Browser capable of handling 128-bit encryption.
- (3) Proxy servers: Offerors must set up their proxy server to allow access to the Internet DEBES port.

C. Access to DEBES

- (1) Port location is: <https://pcsd.usda.gov:3077/mdbc1000.exe?>
- (2) This office will provide the offeror with an ID number and the initial password needed to access DEBES.

- (3) USDA will not be responsible for any failure attributed to the transmission of the bid data prior to being accepted and stored on our web server including, but not limited to the following
  - (a) Any failure of the offeror's computer hardware or software.
  - (b) Availability of your Internet service provider.
  - (c) Delay in transmission due to the speed of your modem.
  - (d) Delay in transmission due to excessive volume of Internet traffic.
- (4) Price and mode of transportation offered for each item must be entered on DEBES offer form bid page. The Trans (transportation) Mode on the DEBES offer form bid page will default to truck. Offerors may select the rail or piggyback mode for each item if applicable. Offeror's designated mode of transportation will become a contract requirement and may not change without prior approval from this office.

D. Late Submission and Modifications:

Any offer submitted to DEBES after the designated time specified for receipt in the invitation will not be considered. Notwithstanding the above, a late modification of an otherwise successful bid that makes its terms more favorable to the government will be considered at any time it is received and may be accepted. For the purpose of this announcement, USDA-1, Articles 6 and 7 are excluded.

E. Basis of Offer

Offers are invited f.o.b. destination. Certain destinations require delivery by TRUCK ONLY or RAIL ONLY. Destinations asterisked together in the invitation indicate carlot combinations, and offers are requested for delivery to all points indicated in the combination. Offerors may rearrange destination sequence on carlot combinations provided the offer is for all parts of the carlot combination. A single price shall be offered for each item. Offers for less than quantity requested per item will not be accepted. **THE USE OF OPEN VAN CARRIERS IS NOT ALLOWED.**

#### **4. ACCEPTANCE OF OFFERS**

- A. USDA will notify successful offerors on the date specified in the invitation. The date of acceptance by USDA will be the contract date.
- B. In addition to the price, factors considered in accepting offers will include the time of shipment, the total cost to the Government to deliver the product to the ultimate destination, and the responsibility of the offeror as demonstrated by prior contract performance.
- C. USDA may accept or reject any or all offers, or portions thereof.

#### **5. RESPONSIBILITY AND PAST PERFORMANCE OF OFFEROR**

- A. Offerors are cautioned not to bid on product quantities exceeding a level that the offeror can reasonably expect to deliver in accordance with the contract schedule. Deliveries must be made during the contracted delivery period and no extensions will be granted due to weekends or Federal holidays. On time delivery is imperative because this product is used in domestic food programs. Late deliveries cause serious and substantial damages to USDA and to other agencies that use this commodity. Contractor delivering late on contracts must immediately notify the contracting officer of late deliveries and how soon delivery can be expected.
- B. The offeror must certify to timely performance on current contracts on the DEBES certification form. A determination that the late performance is beyond the control or negligence of the contractor will be made by the contracting officer prior to bid opening. An offeror may be deemed nonresponsible if the offeror is delivering late on contracts with USDA and the late delivery is not due to causes beyond the contractor's control. This provision, as it pertains to small business, is a deviation from FAR 9.103(b) and Subpart 19.6.



## 6. PROVISIONS OF CONTRACT

- A. The contract consists of:
- (1) Contractor's offer.
  - (2) USDA's acceptance.
  - (3) The applicable invitation.
  - (4) This announcement, including Appendixes 1, and 2.
  - (5) TQSA Supplier Guidelines
  - (6) USDA-1, except Articles 50 and 55 and all of Part E. Articles 56, 65 and 67 are applicable, except that contracts will be executed on a delivery basis. All words referring to "ship," "shipping," "shipments," and "shipped" shall be "deliver," "delivering," "delivery(ies)," and "delivered".
- B. If the provisions of USDA-1, TQSA Supplier Guidelines, and this announcement are not consistent, the provisions of this announcement will prevail. If the provisions of USDA-1, TQSA Supplier Guidelines, this announcement, and the invitation are not consistent, those of the invitation will prevail.
- C. No interpretation or amendment of this announcement is valid or enforceable unless such interpretation or amendment is in writing and executed by the contracting officer. No other determination or opinion shall be a contract interpretation even if it comes from another USDA official.

## 7. NAICS CODE AND SMALL BUSINESS SIZE STANDARD

- A. The North American Industry Classification System (NAICS) code for this acquisition and the small business size standard is:

COMMODITY	NAICS CODE	SIZE STANDARD (EMPLOYEES)
Peanut Butter	311911	500
Peanut Granules	311911	500
Roasted Peanuts	311911	500

- B. The small business size standard for a concern which submits an offer in its own name, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

- C. The U.S. Small Business Administration (SBA) has implemented the Procurement Marketing and Access Network (PRO-Net). PRO-Net is a procurement related Internet-based electronic search engine for locating small, small disadvantaged, and women-owned small business sources. The PRO-Net Internet address (URL) is (<http://pro-net.sba.gov>). Companies that do not have access to the Internet may register for PRO-Net through your local SBA office. The PRO-Net is a free electronic gateway linked to the Commerce Business Daily, government agency home pages, and other sources of procurement opportunities.

## 8. COMMODITY SPECIFICATIONS

### A. Domestic Origin

- (1) The product delivered under this announcement must be produced in the United States from commodities produced in the United States. U.S. domestic origin certification is not required for sweeteners and stabilizers used in the manufacture of peanut butter.
- (2) Peanut oil contractors will no longer be required to provide a domestic origin certification for peanut oil used in the production of peanut butter. The domestic origin requirement for peanut oil can be satisfied by providing records that show that during the contract delivery period the quantity of available domestic origin peanut oil at the supplying facility is equal to or greater than the quantity called for in the contract.
- (3) For purposes of this section, the following definition applies:

"Produced in the United States" means manufactured, processed, mined, harvested, or otherwise prepared for sale or distribution, from components originating in the United States. Components originating in the United States which have been exported, and subsequently imported back into the United States, will not be considered as having been produced in the United States.
- (4) The contractor must maintain records to verify that during the contract delivery period, at the point of packaging or, in the case of bulk commodities, at the point of delivery to USDA, the product was in compliance with the domestic origin requirements of this section of the announcement. (See Article 76 of USDA-1).
- (5) USDA will randomly conduct domestic origin compliance reviews to determine if the product delivered to USDA was produced and manufactured in the U.S. from materials produced and manufactured in the U.S. Upon request, the contractor must submit documentation substantiating compliance to the contracting officer for review. This documentation may include procurement, production, inventory, delivery, and any other pertinent records. Onsite reviews may also be performed, at the discretion of USDA.

B. Warranty

- (1) Vendors supplying commercial products must certify and fully demonstrate that the product being delivered has a history of successful distribution and use in domestic commercial channels. The product delivered shall have a standard retail commercial quality, and comply with all applicable Federal and State mandatory requirements and regulations relating to the preparation, processing, labeling, storage, distribution, and sale within the commercial marketplace.
- (2) The product must conform in every respect to the provisions of the Federal Food, Drug, and Cosmetic Act, as amended, and the regulations promulgated thereunder, including any Defect Action Level guidelines issued by the Food and Drug Administration (FDA) which may be applicable to this product. Any product with counts in excess of the FDA Defect Action Level guidelines shall not be shipped.
- (3) The peanut products must have a shelf life of at least one year from date of manufacturer. Product must not be manufactured more than 60 days prior to shipping. Contractor must replace defective commodity with an equal quantity of commodity which conforms to all contract requirements and specifications, provided replacement is agreed to by USDA.

C. Quality of Peanuts

- (1) Shelled peanuts used in the manufacture of peanut butter, roasted peanuts, and peanut granules to be delivered to USDA must be pretested for aflatoxin at the contractor's expense, in accordance with Title 7, CFR, Parts 997 and 998, Outgoing Quality Regulations. It is also a requirement that all blanchers be approved by the Peanut Administrative Committee (PAC).
- (2) If it has been determined that the lot does not meet the aflatoxin requirement based on the original analysis or by means of an appeal inspection certificate, the lot must be resampled and tested for aflatoxin after blanching (provided blanching is required), using the "appeal" method of testing. In all cases when the appeal method is required, it shall be the method utilized by PAC under the Peanut Marketing Agreement.
- (3) The quality of the shelled peanuts to be utilized in this program must be within the requirements of current grades as outlined in Table 1 or Table 2 provided that a tolerance of not more than 2 percent by weight will be permitted for minor defects and damage combined, including therein not more than 1.25 percent for damage; and provided further for lots required to be U.S. Number 1 Grade or better, that upon an initial inspection of the lot, peanuts may contain not more than 3 percent split or broken kernels; or when peanuts are removed from cold storage or when remilled prior to usage, the lot of peanuts may contain not more than 6 percent split or broken kernels. Alternatively, manufacturers are authorized to use U.S. Number 2 Virginia with a minimum of 80 percent splits.

- (4) Peanuts used for all products must be from current crop-year stocks or as specified in the applicable invitation, and milled from farmers' stock quota peanuts grown in the U.S. Title 7, CFR, Section 1446, governing the peanut price support prohibits the use of additional peanuts (those produced in excess of the national quota poundage) in the domestic market.
- (5) If it is determined that additional peanuts, which are required to be exported and remain exported or crushed into oil, are utilized in the manufacture of peanut products (peanut butter, roasted peanuts, or peanut granules) to fulfill contracts, the product will not be eligible under this announcement, and the processor placing such additional peanuts into the domestic market will be subject to the penalty provisions of Title 7, CFR, Section 1446, for the applicable crop year from which the peanuts were produced.
- (6) The cars or trailers in which the peanuts are loaded must be clean, sanitary, and in a condition to protect the commodity during transit so that the peanuts arrive at destination free from contamination.

**TABLE 1 - PEANUT GRADES FOR PEANUT BUTTER AND PEANUT GRANULES**

<b>The U.S., PAC, and American Peanut Shellers Association grades that may be used for peanuts to be processed into peanut butter or peanut granules are:</b>	
U.S. Runner Splits	APSA Runner Grades with Splits
U.S. Spanish Splits	APSA Number 1 Runner
U.S. Virginia Splits	APSA Select Runner
U.S. Number 1 Runner	APSA Medium Runner
U.S. Number 1 Spanish	APSA Jumbo Runner
U.S. Number 1 Virginia	APSA Mill Run Runner
U.S. Medium Virginia	APSA Runner Grades
U.S. Extra Large Virginia	APSA Runner Splits
PAC with Split Grades	PAC Runner with Splits
PAC Spanish with Splits	PAC Virginia with Splits
U.S. Number 2 Virginia (minimum 80 percent splits)	

**TABLE 2 - PEANUT GRADES AND MINIMUM SIZES FOR ROASTED PEANUTS**

<b>The grade and minimum screen sizes for peanuts to be processed from roasted peanuts are:</b>	
<b><u>Grade</u></b>	<b><u>Minimum Screen Size</u></b>
U.S. Number 1 Runner	18/64 x 3/4 inch slot
U.S. Number 1 Spanish	15/64 x 3/4 inch slot
U.S. Number 1 Virginia	18/64 x 1 inch slot
U.S. Medium Virginia	18/64 x 1 inch slot
U.S. Extra Large Virginia	20/64 x 1 inch slot
APSA Medium Runner	18/64 x 3/4 inch slot
APSA Jumbo Runner	21/64 x 3/4 inch slot

- (7) Except for lots which the finished product is to be unblanched roasted Spanish peanuts, the contractor may elect to blanch the peanuts en route, in which case it is the contractors responsibility to notify custom blanchers. Advance notice must include:
- (1) Dates the lots will arrive at the blanching plants;
  - (2) Manifest;
  - (3) Lot identification;
  - (4) Name of prime contractor;
  - (5) Announcement and invitation number under which the lot is being tendered and the type of end product to be manufactured for delivery.

**D. Quality of Peanut Butter**

- (1) The peanut butter must be of a stabilized type and must be equivalent to the requirements for U.S. Grade A as defined in the "U.S. Standards for Grades of Peanut Butter" in effect on the date of issuance of the applicable invitation.
- (2) The peanut butter must be finely ground and have smooth texture. If chunky peanut butter is called for in the invitation, the texture will be partially fine or partially grainy with substantial amounts of peanut particles larger than 1/16 inch in any dimension. The consistency of the finished product will be such that it spreads uniformly without tearing or breaking fresh white bread. Additionally, the consistency of the finished product shall be free of any "gelatin like" condition.

- (3) The peanut butter must be made of peanuts which have been blanched with the majority of the hearts and germs removed. The color shall be medium brown, but not lighter than USDA Color 2 nor darker than USDA Color 3, as described in the “U.S. Standards for Grades of Peanut Butter”.
- (4) The peanut butter must contain a sufficient amount of stabilizers derived solely from vegetable sources so as to prevent oil separation. Vegetable oils must be produced from non-tropical sources (i.e., coconut, palm, and palm kernel). U.S. origin certification is not required for sweeteners and stabilizers used in the manufacture of peanut butter.
- (5) The peroxide value of peanut butter delivered to USDA must not exceed 1.5 meg/kg.
- (6) Peanut butter delivered to USDA must not exceed the microbiological requirements contained in Table 3 below.

**TABLE 3 - MICROBIOLOGICAL STANDARDS FOR PEANUT BUTTER**

Salmonella	Negative
E. Coli	<3.6/g MPN
Coliform	<10/g MPN
APC	<10,000/g
Yeast	<100/g
Mold	<100/g

E. Quality of Roasted Peanuts

- (1) The roasted peanuts must be of the following types, and the maximum percentage by weight which may be splits is:

**TABLE 4 -MAXIMUM NUMBER OF SPLITS**

Regular/Oil Roasted	Percentage
Runner, blanched	50
Spanish, blanched	50
Spanish, unblanched	25

- (2) Not more than 4 percent by weight of the peanuts will consist of small pieces. A small piece is defined as any piece less than 1/4 peanut. The blanched peanuts shall be practically free from skins either loose or attached.
- (3) The unblanched Spanish type shall be practically free from blanched kernels.
- (4) The Spanish, Virginia, and Runner types shall be medium to heavy roasted. The peanuts may be slightly coated with oil, and the blanched peanuts will be bright. The finished product shall be crisp, palatable, and free from bitter, musty, sour, rancid, sprouty, or other objectionable tastes and odors. The products shall be free of mildew stains, filth, or other extraneous material. The color shall be medium brown, but not lighter than USDA Color 2 nor darker than USDA Color 3, as described in the "U.S. Standards for Grades of Peanut Butter."
- (5) The name "Runner" roasted peanuts, as referenced in the invitation, is defined as blanched roasted Runners or blanched roasted Virginia peanuts.
- (6) The name "Regular" roasted peanuts, as referenced in the invitation, is intended to be a generic product. Either of the two types of roasted peanuts listed in paragraph (1) above may be used.
- (7) The "Spanish" roasted peanuts as listed in the invitation must be unblanched U.S. No. 1 or better Spanish roasted peanuts.

F. Quality of Peanut Granules

The peanuts shall be medium dry or medium oil roasted, blanched, with the hearts and germs removed. The peanuts will be chopped into particles approximately 1/8 inch in diameter so that not more than 10 percent by weight will be retained on a U.S. Number 4 sieve and not more than 5 percent by weight will pass through a U.S. Number 12 sieve. The sieving test shall consist of placing 100 grams of peanut granules on a U.S. Number 4 sieve nested on a U.S. Number 12 sieve and tipping back and forth through a 90° arc 25 times. The color shall be a medium brown, but not lighter than USDA Color 2 nor darker than USDA Color 3. The finished product must be bright, crisp, palatable, and free from bitter, musty, sour, rancid, sprouty, or other objectionable tastes and odors. The product shall be practically free from skins. The product must show no dullness, mildew stains, skins, filth, or other extraneous material.

G. Quality of Roasting Oil

- (1) Refined peanut oil shall be used. The oil shall be thoroughly refined, deodorized, and free from rancidity and objectionable flavor after heating to 400°F and shall have a free-fatty acid content of not more than .08 percent (as oleic acid) prior to its first use. In addition, the roasting oil must be stabilized using additives of a kind and at levels permitted in edible oil products under the Federal Food, Drug, and Cosmetic Act, as amended, and regulations promulgated thereunder.

- (2) Daily production must start with new or freshly filtered oil and clean roasting tanks.

H. Finished Product Requirements for Peanut Butter, Roasted Peanuts, and Peanut Granules

- (1) The product must be packed and processed under sanitary conditions and must conform in every respect to the provisions of the "Federal Food, Drug, and Cosmetic Act," as amended, and the regulations promulgated thereunder, (including chemical test for aflatoxin) except the aflatoxin content must not exceed 15 parts per billion.

✓...

- (2) Subject to the provisions of Articles 60 and 68 of USDA-1, product which deviates from the specifications of this contract will be rejected.

**9. QUALITY ASSURANCE**

- A. The contractor must perform the product testing and quality analysis to ensure that the product meets the specifications described in Section 8. The results must be evidenced by a Certificate of Analysis. The contractor must retain the certificates of analysis and furnish to USDA upon request. Contractors are required to notify KCCO immediately of lots that fail to meet contract requirements.
- B. Contractor must not ship the product unless the containers and markings meet the Acceptable Quality Level (AQL) of the "U.S. Standards for Condition of Food Containers". Except with respect to shipments that do not meet the AQL standards, and notwithstanding Article 56(b) of USDA-1, contractor assumes all risks and liabilities that arise with respect to the failure of the shipped product to meet contract specifications.
- C. The TQSA program is a method of contractor verification and shall not relieve contractors of their responsibility to deliver a product which complies with all contractual and specification requirements.
- D. If the contractor becomes TQSA non-compliant after the contract is awarded and through execution of contract, the contracting officer may terminate contract for default.

**10. COMMERCIAL PACKAGING AND MARKING SPECIFICATIONS**

- A. In accordance with Article 60 of USDA-1, the USDA contractor will be liable if containers or packaging material do not meet contract requirements.
- B. All containers and packaging materials must be manufactured and assembled in the United States. The components that make up the fabricating materials of the containers and packaging materials must be of U.S. origin to the extent that they are commercially available.
- C. The marking and labeling for commercial products must be in accordance with good commercial practices.
- D. At contractor's option, a statement such as "NOT FOR RETAIL SALE" may be printed on the principal display panel of the food label.



- E. The manufacturer's lot code/lot identification number must be shown on the commercial bill of lading.
- F. For identification upon receipt at delivery warehouses, all commercial-labeled product shipping documents must specify "FOR USDA FOOD DISTRIBUTION PROGRAMS."
- G. "Kosher Only" products will be identified in the invitation. Offerors must not bid on these products unless they are properly certified to produce Kosher products. If an offeror bids on products identified as "Kosher Only," they shall provide a letter to the consignee certifying compliance with applicable Kosher dietary laws.
- H. Container and packaging requirements for commercial products are those used in the current commercial shipping practices and must comply with the following unitization requirements:
  - (1) Unless otherwise specified by USDA, all shipments of packaged products must be unitized (palletized and stretch wrapped).
  - (2) Pallets must be:
    - (a) Constructed to facilitate the safe handling and transportation of the packaged product, as a unit, without loss or damage.
    - (b) 48 x 40 inches, four-way or partial four-way, and reversible or nonreversible flush stringer.
    - (c) Suitable for use in the shipment of food products.
  - (3) Plastic stretch wrap must be:
    - (a) Constructed of a plastic film which is to be stretch a minimum of 50 percent beyond its original length when stretched around the pallet load.
    - (b) Applied as tightly as possible around all tiers of the palletized shipping containers. The shipping containers must be held firmly in place by the stretch wrap.
  - (4) Pallet loads must be:
    - (a) Stacked in such a way as to minimize the amount that shipping containers overhang the edges of pallets. (While shipping containers may overhang the edges of pallets, contractors are reminded that they are responsible for the safe shipment and delivery of the product.)
    - (b) Blocked and braced or otherwise loaded into the conveyance in a manner that prevents shifting during transit.

- I. Shipping containers must be marked to show the maximum safe stacking height. It is the responsibility of the contractor in cooperation with the shipping container manufacturers to determine the safe stacking height.

## 11. SHIPMENT AND DELIVERY

- A. Shipment and delivery must be made in accordance with this announcement and Articles 56 and 64 of USDA-1.
- B. Title and risk of loss will pass to USDA on the date of delivery, as evidenced by signed and dated consignee's receipt, warehouse receipt, dock receipt, or other similar document acceptable to USDA.
- C. The quantity of the product delivered must be evidenced by signed and dated consignee's receipt, warehouse receipt, dock receipt, or other similar document acceptable to USDA, and such document must be retained by the contractor.
- D. Contractors are required to make **TWO** notifications for each shipment (See Article 56(c) of USDA-1):
  - (1) The State Agency, "Consign To" party shown on the Notice to Deliver (N/D), must be **FAXED** on the day of shipment.
  - (2) The receiving warehouse, "Care Of" party shown on the N/D, must be called 24 hours in advance to schedule an unloading appointment. (This is not required for rail shipments.) Contractors must notify the contracting officer in advance if deliveries will not be made by the final delivery date under the contract, in accordance with Article 67(a) of USDA-1.
- E. Consignees may request upgrading of delivery services; for example, delivery within the doors of the consignee's premises or to a specific room within a building. Contractors are alerted that such delivery terms are beyond contractual requirements. If an upgrade of delivery services is requested and agreed to, additional charges must be billed to the party requesting the service.

## 12. LIQUIDATED DAMAGES

- A. Compensation to Contractor for Late Mailing of Notice to Deliver

Liquidated damages for delay in delivery due to late issuance of "Notice to Deliver" (KC-269), will be payable in accordance with Article 65 of USDA-1, and will be at the rate of \$0.45 per 100 pounds (net weight) per day.

- B. Compensation to USDA for Delay in Delivery

Liquidated damages for delay in delivery will be payable in accordance with Article 67 of USDA-1, and will be at the rate of \$0.45 per 100 pounds (net weight) per day.

### 13. INVOICES AND PAYMENT

A. Invoicing and payment will be handled in accordance with Article 70, USDA-1, except that a properly prepared invoice package must include the following supporting documents:

- (1) A signed and dated Form KC-269 (reverse side) which includes the "Contractor's Invoice Certification" evidencing the date of delivery and quantity (units) delivered in good condition, OR
- (2) A signed and dated commercial invoice evidencing the date of delivery and quantity (units) delivered in good condition which must include the following statement (either as a part of the commercial invoice or an attachment to):

"Contractor's Invoice Certification"

"I certify that this invoice presented for payment is true. This certification is executed with full knowledge of the provision of 15 U.S.C. 714m(a), which provides a fine of not to exceed \$10,000 or imprisonment of not more than five years or both, for making any statement knowing it to be false, for the purpose of influencing in any way the action of the United States Department of Agriculture, and with full knowledge of the provisions of 31 U.S.C. 3729 imposing civil liability upon any person who shall make or cause to be made a false, fictitious, or fraudulent claim against the United States."

\_\_\_\_\_  
Authorized signature

\_\_\_\_\_  
Date

- (3) Commercial bill of lading.
- (4) If the contractor does not complete a "Contractor's Invoice Certification," then proof of delivery as evidenced by one or more of the following documents will be required as a part of the invoice package:
  - (a) A copy of the Bill of Lading signed and dated by the recipient
  - (b) A copy of the commercial receipt evidencing delivery signed and dated by the recipient.

Invoices must be mailed to:

Kansas City Finance Office  
Financial Operations Division, Payment Certification Branch  
Stop Code 8578  
P.O. Box 419205  
Kansas City, MO 64141-6205

- B. The Debt Collection Improvement Act of 1996 amended 31 U.S.C. 3332 to require Federal agencies to convert all Federal payments from checks to electronic fund transfers. Payments must be made directly to a financial banking institution. To receive payments electronically, Standard Form 3881, ACH Vendor/Miscellaneous Payment Enrollment Form must be completed. If you have questions or would like this form mailed to you, contact Financial Operations Division, Payment Certification Branch.

#### **14. INQUIRIES**

Inquiries pertaining to USDA-1 and this announcement should be directed to:

Kansas City Commodity Office  
Dairy and Domestic Operations Division  
Stop Code 8718  
P.O. Box 419205  
Kansas City, MO 64141-6205

George W. Aldaya  
Director  
Kansas City Commodity Office

## **APPENDIX 2**

### **FAR Clauses Incorporated by Reference**

#### **ANNOUNCEMENT PP9 PURCHASE OF PEANUT PRODUCTS FOR USE IN DOMESTIC PROGRAMS**



## **FAR Clauses Incorporated by Reference**

The following clauses are incorporated by reference with the same force and effect as if they were given in full text. Upon request, the contracting officer will make their full text available. Also, the full text of a clause may be accessed electronically at the following FAR home page address:

**<http://www.arnet.gov/far/>**

<b>The following FAR clauses are incorporated by reference in accordance with 52.252-2 (Feb 1998)</b>		
<b>Clause No.</b>	<b>Title</b>	<b>Issue Date</b>
<b>52.023-6</b>	<b>Restrictions on Subcontractor Sales to the Government (<i>Alternate I</i>)</b>	<b>Jul 1995</b>
<b>52.203-8</b>	<b>Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity</b>	<b>Jan 1997</b>
<b>52.209-6</b>	<b>Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment</b>	<b>Jul 1995</b>
<b>52.232-34</b>	<b>Payment by Electronic Funds Transfer--Other than Central Contractor Registration</b>	<b>May 1999</b>
<b>52.244-6</b>	<b>Subcontracts for Commercial Items and Commercial Components</b>	<b>Oct 1998</b>